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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,098

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EXAMINER

SPURLOCK, BRETT SHANE

ART UNIT

PAPER NUMBER

3742

NOTIFICATION DATE

DELIVERY MODE

12/27/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

bstills@zarleylaw.com

Office Action Summary	Application No. 10/581,098	Applicant(s) VAN DE WIJGERT, HENRICUS JOHANNES JOSEP	
	Examiner BRETT SPURLOCK	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/9/07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, as found in claim 3 the “variable Venturi” (i.e. the manner and/or direction in which it is variable must be shown; is it variable as a function of time, space, something else? Where and what are the different components?); as found in claim 4 the “interchangeable housing” (Is 54 or 52 the housing? Where are the potential interchangeable alternatives? If 54 is the “housing” then how would one change it? How has this been shown?); and as found in claim 10 “an injector” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Fig. 4 should be reviewed in light of these comments.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New

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Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 12-13 are objected to because of the following informalities: in claim 12, the word “having” in the preamble prior to comprising should be deleted and in claim 13, the instance of “processing step Z) of:” should be rewritten “processing step of”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 and 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation as found in claim 1, “supply means connect to the apparatus on the side of the closing means in the feed conduit from the pump to the processing unit directed to the liquid container,” is not clear. Should this read, “on the side of the closing means in the feed conduit **between** the pump **and** the processing unit”? What structural limitation does “directed to the liquid container” limit or impart into the claim language? With respect to claims 1 what does “via a pump to the processing unit” mean? Similarly with respect to claims 12 what does “from a pump to the processing unit” mean? With respect to claim 4, it is not clear

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how one would change the “housing” and, as per the drawings provided by applicant, it seems as though the claim should state that the Venturi passages are interchangeable.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 - 2 and 8 - 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Woolard et al (US 6234665 B1) (hereinafter Woolard).

Woolard discloses an apparatus for processing foodstuff with liquid wherein a liquid container (5), a processing unit (12) for processing the foodstuff (see col. 3, lines 46-47), a feed conduit (9 and/or 6 and/or 2) connecting the liquid container to the processing unit via a pump (7 and/or 2), a return conduit (10) which connects to the feed conduit between the pump and the processing unit and which debouches in the liquid container (5), and closing means (12) for selectively closing the feed conduit from the pump to the processing unit and the return conduit (10) from the pump to the liquid container, characterised in that the apparatus also comprises supply means (3) to add additives (col. 3, lines 34-37), which supply means connect to the apparatus on the side of the closing means (12 and/or 2) in the feed conduit from the pump to the processing unit directed to the liquid container (see Fig. 1-2); the supply means connect to the apparatus behind a venturi (2, a “jet pump” which is a venturi as evidenced by diagram

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thereof provided by MathWorks) in a conduit; an injector (12) for injecting the liquid into the foodstuff (functional language which is therefore not given patentable weight).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 - 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Patterson et al (US 4430251 A) (hereinafter Patterson) and Pullman (US 5779355 A) (hereinafter Pullman).

Woolard discloses a dispensing device (14) attached to the supply means except that the Venturi passage is provided with a passage opening having variable dimensions.

Patterson discloses a variable diameter Venturi tube (302) and Pullman discloses that the Venturi passage may be provided with a passage opening having variable dimensions in order to accommodate for different viscosities (e.g. particle sizes) (col. 3, lines 30-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt Woolard with the Venturi passage (e.g. jet pump) by supplying a Venturi tube which has a variable diameter as disclosed by Patterson in order to accommodate different viscosities as disclosed by Pullman.

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9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Taylor et al (US 5904851 A) (hereinafter Taylor).

Woolard discloses the claimed invention except that an additional mixing means is attached for generating turbulence.

Taylor discloses an additional mixing means (21 and/or 23) in order to provide different mixing profiles.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the mixing apparatus disclosed by Woolard by providing an additional mixing means as disclosed by Taylor to compensate for different mixing profiles.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Taylor, as disclosed above with respect to claim 6, and further in view of Keller et al (US 4767026 A) (hereinafter Keller).

Woolard in view of Taylor discloses the claimed invention except that the mixing apparatus is detachable.

Keller discloses that a mixing apparatus (10) is detachable (col. 2 line 63 - col. 3 line 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the mixing apparatus disclosed by Woolard in view of Taylor by allowing for it to be detachable as disclosed by Keller to facilitate the cleaning of the device.

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11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Russell et al (US 20020057625 A1) (hereinafter Russell).

Woolard discloses the claimed invention except for a second additive in the circulating mode.

Russell discloses a second additive (Fig. 3, "CO2 supply") in the circulating mode (72).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the mixing apparatus disclosed by Woolard by providing a second additive as disclosed by Russell to achieve a desired characteristic.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRETT SPURLOCK whose telephone number is (571)270-1387. The examiner can normally be reached on M-TH, M-F, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 5712724780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRETT SPURLOCK/
Examiner, Art Unit 3742
12/7/2010

/SANG Y PAIK/
Primary Examiner, Art Unit 3742